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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW
(Legislative Department)

New Delhi, the 13th May, 1971/Vaisakha 23, 1893 (Saka)

THE GENERAL INSURANCE (EMERGENCY PROVISIONS) ORDINANCE, 1971

No. 6 OF 1971

Promulgated by the President in the Twenty-second Year of the Republic of India.

An Ordinance to provide for the taking over, in the public interest, of the management of general insurance business pending nationalisation of such business.

WHEREAS it is expedient in the public interest that general insurance business should be nationalised;

AND WHEREAS it is expedient that pending such nationalisation, adequate steps should be taken to protect the interests of the policyholders;

AND WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of Article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:

1. (*1*) This Ordinance may be called the General Insurance (Emergency Provisions) Ordinance, 1971. Short title and commencement.

(2) It shall come into force at once.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(a) "appointed day" means the date on which this Ordinance comes into force;

(b) "Custodian" means the person appointed under section 4 to take over the management of the undertaking of any insurer;

(c) "general insurance business" means fire, marine or miscellaneous insurance business, whether carried on singly or in combination with one or more of them, but does not include capital redemption business and annuity certain business;

(d) "Insurance Act" means the Insurance Act, 1938; 4 of 1938.

(e) "insurer" means an insurer, as defined in the Insurance Act, who carries on general insurance business in India, and includes an insurer whose registration under that Act has not remained wholly cancelled for a period of six months immediately before the appointed day, but does not include the Life Insurance Corporation of India established under the Life Insurance Corporation Act, 1956, or any State Government which carries on general insurance business; 31 of 1956

(f) "notified order" means an order notified in the Official Gazette;

(g) "prescribed" means prescribed by rules made under this Ordinance;

(h) "undertaking", in relation to an insurer incorporated outside India, means the undertaking of that insurer in India;

(i) words and expressions used herein but not defined, and defined in the Insurance Act, have the meanings respectively assigned to them in that Act.

Management of undertakings to vest in Government on commencement of Ordinance.

3. (1) On and from the appointed day, the management of the undertakings of all insurers shall vest in the Central Government, and, pending the appointment of a Custodian for the undertaking of any insurer, the persons in charge of the management of such undertaking immediately before the appointed day shall, on and from the appointed day, be in charge of the management of the undertaking for and on behalf of the Central Government; and the management of the undertaking of the insurer shall be carried on by them subject to the provisions contained in sub-sections (3) and (5) and to such further directions, if any, as the Central Government may give to them by notice addressed and sent to the principal officer of the insurer.

(2) Any contract, whether express or implied, providing for the management of the undertaking of an insurer, made before the appointed day between the insurer and any person in charge of the management of such undertaking immediately before the appointed day, shall be deemed to have terminated on the appointed day.

(3) No insurer shall, without the previous approval of the person specified by the Central Government in this behalf in respect of that insurer (hereinafter referred to as the "authorised person"),—

(*a*) make any payment or grant any loan otherwise than in accordance with the normal practice observed by him in respect of such matters immediately before the appointed day;

(*b*) incur any expenditure from the assets appertaining to the undertaking otherwise than for the purpose of making routine payments of salaries or commissions to employees, insurance agents or for the purpose of meeting the routine day to day expenditure;

(*c*) transfer or otherwise dispose of any such assets or create any charge, hypothecation, lien or other encumbrance thereon;

(*d*) invest in any manner any moneys forming part of such assets;

(*e*) acquire any immovable property out of any moneys forming part of such assets;

(*f*) enter into any contract of service or agency, whether expressly or by implication, for purposes connected wholly or partly with the undertaking or vary the terms and conditions of any such contract subsisting on the appointed day;

(*g*) enter into any other transaction relating to the undertaking of the insurer other than a contract relating to the transaction of general insurance business or vary the terms and conditions of any agreement relating to any such transaction subsisting at the commencement of this Ordinance.

(4) The approval of the authorised person may be given either generally in relation to certain classes of transactions of the insurer or specin relation to any of his transactions.

(5) Every insurer shall deposit all securities and documents of title to any assets appertaining to the undertaking in any Scheduled Bank or Nationalised Bank in which the insurer had an account immediately before the appointed day or in any branch of the State Bank in the place where the head office or the principal office of the insurer is situated or, where there is no branch of the State Bank in such place, the nearest branch of the State Bank; and no such security or document shall be withdrawn from the Scheduled Bank, the Nationalised Bank or the State Bank, as the case may be, except with the permission of the authorised person:

Provided that nothing contained in this sub-section shall apply to any security or document of title kept in trust with an Official Trustee in pursuance of the articles of association of an insurer unless the Central Government, by notified order, otherwise directs.

Explanation.—In this sub-section,—

(*a*) "Scheduled Bank" means a bank included for the time being in the Second Schedule to the Reserve Bank of India Act, 1934; 2 of 1934.

(*b*) "State Bank" means the State Bank of India constituted under the State Bank of India Act, 1955; 23 of 1955.

(*c*) "Nationalised Bank" means a corresponding new bank as defined in the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970. 5 of 1970.

(6) Every insurer shall deliver forthwith to the person specified in this behalf by the Central Government in respect of that insurer the following documents, namely:—

(a) the minutes book or any other book in India containing all resolutions up to the appointed day of the persons in charge of the management of the undertaking before the appointed day;

(b) the current cheque books relating to the undertaking which are at the head office or the principal office of the insurer;

(c) all registers or other books containing particulars relating to the investment of any moneys appertaining to the undertaking including investments on mortgaged properties and all loans granted and advances made;

(d) all brokers' notes or certificates in the possession of the insurer in respect of any orders for the investment of any moneys appertaining to the undertaking.

(7) Without prejudice to the generality of the powers conferred by sub-section (1) and to the provisions contained in sub-sections (3), (5)— and (6), any direction issued under sub-section (1) may require the persons in charge of the management of the undertaking of an insurer under this Ordinance to furnish to the Central Government or to the authorised person such returns, statements and other information relating to the undertaking as may be mentioned in the direction.

(8) The persons in charge of the management of the undertaking of an insurer under this Ordinance shall be entitled to such remuneration, whether by way of allowance or salary or perquisites as the Central Government may fix; and any such person may, by giving one month's notice in writing to the Central Government of his intention so to do, relinquish charge of the management of the undertaking.

Power of Central Government to appoint Custodians to take over the management of the undertaking of the insurer.

4. (1) The Central Government may, as soon as it is convenient administratively so to do, appoint any person as Custodian for the purpose of taking over the management of the undertaking of an insurer and the person so appointed shall carry on the management of the undertaking of the insurer for and on behalf of the Central Government.

(2) On the appointment of a Custodian under sub-section (1), the charge of management of the undertaking of the insurer shall vest in him and all persons in charge of the management of such undertaking immediately before such appointment shall cease to be in charge of such management and shall be bound to deliver to the Custodian all books of account, registers or other documents in their custody relating to the undertaking of the insurer.

(3) Nothing contained in sub-sections (3), (5) and (6) of section 3 shall apply to any insurer the charge of management of whose undertaking has been taken over by the Custodian, but the Central Government may issue such directions to the Custodian as to his powers and duties as it deems desirable in the circumstances of the case, and the Custodian may apply to the Central Government at any time for instructions as to the manner in which he shall conduct the management of the undertaking of the insurer or in relation to any matter arising in the course of such managemtnt.

(4) The Custodian shall receive from the funds of the undertaking for the charge of management of which he is appointed under sub-section (1) such remuneration as the Central Government may fix.

(5) The Custodian shall hold office during the pleasure of the Central Government.

Power of Custodian to institute proceedings, etc.

5. The Custodian may, in relation to the undertaking of any insurer the charge of management of which has been taken over by him, exercise—

(a) all or any of the powers which the Controller of Insurance may exercise under section 106 or section 107 of the Insurance Act;

(b) all or any of the powers under section 52B, section 52BB, section 52C or section 52D of the Insurance Act which an Administrator appointed under section 52A of that Act could have exercised in relation to life insurance business of an insurer.

Payment of compensation.

6. (1) Every insurer shall be given by the Central Government compensation for the vesting in it, under section 3, of the management of the undertaking of the insurer.

(2) For every month during which the management of the undertaking of the insurer remains vested in the Central Government, the amount of compensation referred to in sub-section (1) shall be—

(A) in the case of an insurer referred to in clause (b) of sub-section (9) of section 2 of the Insurance Act,—

(i) where the insurer has declared a dividend during at least one of the three calendar years 1967, 1968 and 1969,—

(a) a sum equal to one-twelfth of the annual average (for the three years) of the amount distributed to shareholders as dividend; or

(b) a sum equal to two and a half rupees for every thousand rupees or part thereof of the net premium income of the undertaking of insurer during the year 1969,

whichever is greater;

(ii) in any other case, a sum equal to two and a half rupees for every thousand rupees or part thereof of the net premium income of the undertaking of the insurer during the year 1969;

(B) in the case of an insurer referred to in clause (a) of sub-section (9) of section 2 of the Insurance Act, a sum equal to two and a half rupees for every thousand rupees or part thereof of the net premium income of the undertaking of the insurer in India during the year 1969.

Compensation how to be paid.

7. (1) The compensation referred to in section 6 shall be paid by the Central Government in cash to every insurer.

(2) The compensation received by an insurer under section 6 shall be dealt with by him in such manner as may be prescribed.

Penalties.

8. If any person—

(a) fails to deliver to the Custodian any books of account, registers or any other documents in his custody relating to the undertaking of an insurer in respect of the management of which the Custodian has been appointed, or

(b) retains any property of such insurer appertaining to the undertaking of the insurer, or

(c) fails to comply with the provisions contained in sub-section (3) or sub-section (5) or sub-section (6) of section 3, or

(d) fails to comply with any directions issued under sub-section (1) or sub-section (7) of section 3,

he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Insurer not to be wound up by court.

9. No proceeding for the winding up of an insurer, the management of whose undertaking has vested in the Central Government under this Ordinance, or for the appointment of a Receiver in respect of such business, shall lie in any Court.

Exclusion of time of Ordinance for computing period of limitation.

10. In computing the period of limitation prescribed by any law for the time being in force for any suit or application against any person by an insurer in respect of any matter arising out of his undertaking, the time during which this Ordinance is in force shall be excluded.

Effect of Ordinance on other laws.

11. The provisions of this Ordinance shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Ordinance.

Delegation of powers.

12. The Central Government may, by notified order, direct that all or any of the powers exercisable by it under this Ordinance may also be exercised by any such person as may be specified in the order.

Protection of action taken under this Ordinance.

13. (1) No suit, prosecution or other legal proceeding shall lie against any Custodian or authorised person in respect of anything which is in good faith done or intended to be done under this Ordinance.

(2) No suit or other legal proceeding shall lie against the Central Government or any Custodian or authorised person for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Ordinance.

New certificate of registration not to be issued.

14. Notwithstanding the provisions of section 3 of the Insurance Act, the Controller of Insurance shall not, after the appointed day, issue any new certificate of registration under that section to any person.

Ordinance where not to apply.

15. Nothing contained in this Ordinance shall apply to—

(a) any insurer whose business is being voluntarily wound up or is being wound up by a Court;

(b) any insurer to whom the Insurance Act does not apply by reason of the provisions contained in section 2E thereof;

(c) the Calcutta Hospital and Nursing Home Benefit Association Limited;

(*d*) the Export Credit Guarantee Corporation;

(*e*) the Deposit Insurance Scheme;

(*f*) any scheme of insurance which might be exempted by the Central Government relating to—

(*i*) crop and cattle,

(*ii*) war risks,

(*iii*) emergency risks;

(*g*) general insurance business carried on by a State Government or by the Life Insurance Corporation of India.

Power to make rules.

16. (*1*) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Ordinance.

(*2*) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(*a*) the form and manner in which books of account appertaining to undertakings shall be maintained by insurers;

(*b*) the manner in which any compensation payable under this Ordinance shall be dealt with by an insurer;

(*c*) the circumstances in which the remuneration payable to persons in charge of the management of the undertaking of an insurer under this Ordinance or to Custodians shall be met by the Central Government, whether wholly or in part;

(*d*) any other matter which may be, or is required to be, prescribed.

V. V. GIRI,
President.

N. D. P. NAMBOODIRIPAD,
Joint Secy. to the Govt. of India.

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